

In re: 10/606,678
Filed: June 26, 2003
Page 13

REMARKS

This response is submitted in reply to the Restriction requirement mailed on December 7, 2004 ("the Action"). The Action requires Applicants to elect to prosecute either the method claims (Claims 1-28 and 65-71), the dry powder dispensing system claims (Claims 29-54, 72 and 73) or the computer program product claims (Claims 55-64). Applicants hereby provisionally elect, with traverse, the method claims, Claims 1-28 and 65-71 (and new dependent Claim 74). Claims 55-64 have been canceled hereinabove without prejudice to a future divisional application.

Applicants respectfully request that the Examiner reconsider maintaining at least Claims 29-54, Claims 72-73, and new Claims 75-76 in the present application as these system claims share special technical features with the method claims.¹ For example:

Claim 1 recites in part:

generating a first non-linear vibration input signal, the first non-linear input signal comprising a plurality of different selected frequencies that correspond to a first dry powder formulation; applying the first non-linear vibration input signal to a dispensing hopper having at least one dispensing port while the first dry powder formulation is flowing therethrough...

Claim 29 recites in part:

at least one vibration energy generation source operably associated with the hopper, wherein, in operation, the at least one vibration energy generation source is configured to output a desired non-linear vibratory energy sufficient to impart an angular velocity with downward force vectors to the dry powder as the dry powder flows downwardly to the dispensing port; and

a control module operably associated with the hopper and the vibration energy generation source, the control module comprising:

computer readable program code configured to direct the vibration energy source to output the vibration energy corresponding to the dry powder in the system.

¹ Applicants respectfully traverse the Restriction with respect to Invention II as it does not present a serious burden to examine the claims of the inventions together as the claims recite common special technical features. MPEP 803 "Restriction - When Proper ... If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

In re: 10/606,678
Filed: June 26, 2003
Page 14


Applicants request that the Examiner maintain the claims together because it would not present an undue burden on the Examiner to search and examine the claims together. MPEP 803

The Action also states at paragraph 5 that there are nine "patentably distinct" species of the claimed invention and that currently no claims appear to be generic (*i.e.*, cover all of the different embodiments illustrated). Applicants respectfully disagree. As claimed, each of the embodiments is configured to generate a non-linear vibratory signal to the dry powder. As such, regarding the method claims, at least Claims 1-12, 16, 17, 21, 22, 25-28 and 74 are generic to the claimed invention. Nonetheless, Applicants provisionally elect the species shown in Figure 1A. Applicants respectfully submit that method Claims 1-12, 14-17, 19-22, 25-28 and 74 are readable on the provisionally-elected species.

Applicants have filed a Supplemental Information Disclosure Statement (IDS) with a Form PTO 1449 listing two references. Consideration of the IDS is requested.

Applicants submit that the present application is in condition for examination and the same is earnestly solicited.

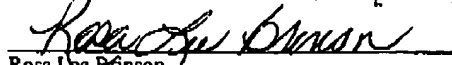
Respectfully submitted,


Julie H. Richardson
Registration No. 40,142

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

CERTIFICATION OF FACSIMILE TRANSMISSION
UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office via the central facsimile number 703-872-9306 on January 6, 2005.


Rosa Lee Brinson